

IN THE MATTER OF THE  
THE APPLICATION OF  
PHILIP J. SWANSON  
FOR A SPECIAL HEARING  
ON PROPERTY LOCATED ON THE  
EAST SIDE DUTTON AVENUE, 550' N OF  
NORTH OF THE C/L OF  
FREDERICK ROAD (5 DUTTON AVE.)  
1ST ELECTION DISTRICT  
1ST COUNCILMANIC DISTRICT

OPINION

This case comes before this Board on appeal from the decision of the Deputy Zoning Commissioner denying the Swansons a nonconforming use of the subject property as a two-apartment dwelling. The Board received testimony from Ann V. Swanson, who testified that she purchased the property in 1985 and at the time of purchase the third floor apartment was rented to a tenant who remained a tenant until March of 1991. The apartment was then rented and is currently occupied.

Ms. Swanson, by way of affidavit from former owners and neighbors, indicated that in 1920 the Hollomon family purchased the home and in 1932 began to take in boarders; that an apartment use was continued in that residence until his mother sold the property to the Hammonds in September of 1963. An affidavit from Myrtle Chell, a next-door neighbor, indicated she has been a resident of that neighborhood since 1938 and confirmed the Hollomon affidavit, specifically further stating that her friend occupied the third-floor apartment from 1963 to 1978.

Mary Lee, the neighbor on the opposite side of the dwelling, has been a resident there since 1974 and confirms in her affidavit that the third-floor apartment has existed since her residence in the neighborhood, and that the apartment has either been continuously rented or available to be rented as far as her memory serves. Another affidavit from Charles and Gail Kindred indicated

Case No. 90-488-SPH Philip J. Swanson  
that they owned the dwelling from 1984 to 1985 and at the time of their purchase the third floor was rented and was continuously rented during their term as owners of the property.

The Board also heard from William Jenkins, the owner of 13 Dutton Avenue, who expressed his concern about the multi-family dwelling's effect on the neighborhood. Mr. Jenkins was unable to confirm or deny the existence of an apartment in the subject property during the period in question. That concluded the evidence received by the Board.

In consideration of the testimony and evidence presented, the Board finds as a matter of fact sufficient evidence to support that the subject property has been used continuously and without interruption as a dwelling which was owner-occupied with an additional apartment unit. The Board further finds that this use has continued uninterrupted since at least 1941.

ORDER

IT IS THEREFORE this 26th day of June, 1991 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Hearing for a nonconforming use of a two-apartment dwelling is hereby GRANTED subject to the condition that one apartment of the dwelling be owner-occupied at all times.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY  
Arnold G. Foreman, Acting Chairman  
John G. Disney  
Harry G. Buchheister, Jr.



County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING, ROOM 315  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 887-3180

June 26, 1991

John V. Murphy, Esquire  
14 N. Rolling Road  
Catonsville, MD 21228

RE: Case No. 90-488-SPH  
Philip J. Swanson

Dear Mr. Murphy:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer  
Administrative Assistant

encl

cc: Mr. & Mrs. Philip J. Swanson  
Mr. William Jenkins  
P. David Fields  
Pat Keller  
J. Robert Haines  
Deputy Zoning Commissioner  
James E. Dyer  
W. Carl Richards, Jr.  
Docket Clerk - Zoning  
Baltimore County Attorney

IN RE: PETITION FOR SPECIAL HEARING  
E/S Dutton Avenue, 550' N of  
the c/l of Frederick Road  
(5 Dutton Avenue)  
1st Election District  
1st Councilmanic District  
Philip J. Swanson, et ux  
Petitioners

BEFORE THE  
DEPUTY ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-488-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a two apartment dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners, by Ann V. Swanson, appeared and testified. Also appearing on behalf of the Petition was J. Edward Hollomon. Appearing as interested parties were: Jennifer Buchta, William B. Harmon and David J. Goodman, residents of the area. There were no Protestants.

Testimony indicated that the subject property, known as 5 Dutton Avenue, consists of 0.37 acres zoned D.R. 2 and is improved with a two and one-half story frame dwelling. Petitioners purchased the subject property in 1985 at which time the top (or third) floor of the dwelling was used as a separate apartment, with the first and second floors used as the principal residence. Mrs. Swanson testified that the use of the property as a two apartment dwelling has been continuous and uninterrupted since Petitioners' purchase of the property. Testimony indicated that the instant Petition was filed to verify the nonconforming status of the property as two apartments as a result of a complaint filed with the zoning office.

Edward Hollomon testified that his family purchased the subject property in 1918 and that he resided in the dwelling from the time of his birth in 1919 until his marriage in 1941. He stated that his family origi-

ORDER RECEIVED FOR FILING  
Date 6/27/91  
By John V. Murphy

PETITION FOR SPECIAL HEARING  
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-488-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

THE NON CONFORMING USE OF A TWO APARTMENT DWELLING.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Philip J. Swanson
Signature	(Type or Print Name)
Address	Ann V. Swanson
City and State	(Type or Print Name)
Attorney for Petitioner:	Signature
(Type or Print Name)	5 Dutton Avenue W 788-0050
Address	Address Phone No.
City and State	Catonsville, Maryland, 21228
Signature	City and State
Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	Name
Attorney's Telephone No.:	Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 2nd day of July, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 104, County Office Building in Towson, Baltimore County, on the 21st day of July, 1991, at 2:30 o'clock P.M.

ESTIMATED LENGTH OF HEARING - 1/2 hr.  
APPEARING FOR HEARING  
ALL MON./TUES./WED. - 8:00 AM TO 12:00 PM  
Zoning Commissioner of Baltimore County  
LEWIS & CLARK  
DATE 4-9-92

ORDER RECEIVED FOR FILING  
Date 6/27/91  
By John V. Murphy

nally used the dwelling as a single family residence but began taking in boarders in 1932. Mr. Hollomon testified that after his marriage in 1941, his parents converted the dwelling to two apartments. He stated that his parents used the first floor and part of the second floor as their personal residence and rented the remaining part of the second floor and all of the third floor as a separate apartment. He testified that thereafter, a portion of the second floor and all of the third floor were rented as an apartment until his mother sold the property in 1967.

In further support of their position, Mrs. Swanson introduced as Petitioner's Exhibit 2 a letter dated June 20, 1990 from Gail Kindred, the previous owner, indicating that at the time she and her husband purchased the property in 1984, the third floor apartment was occupied by renters and that they continued to rent out the third floor apartment until its sale to Petitioners in 1985. Mrs. Swanson testified that she requested the previous owners to provide additional information but had been unable to obtain their appearance at the hearing or any further documentation.

Mr. Harmon testified that he had been a resident of the area since 1966 and could not verify one way or the other whether or not the subject property had been continuously used as a two apartment dwelling as he did not know the owners.

At the end of the hearing, which was held on June 21, 1990, Petitioners were given an opportunity to supplement the record with signed affidavits from adjoining property owners or the previous owners verifying the use of the property as two apartments from 1967 until 1984. Since no additional documentation was received, a letter requesting the information be submitted within 15 days was forwarded to Petitioners on August 24, 1990. To date, no additional information or response has been received.

ORDER RECEIVED FOR FILING  
Date 6/27/91  
By John V. Murphy

Section 104.1 of the B.C.Z.R. states that "A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, the right to continue or resume such nonconforming use shall terminate." The first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning. Clearly, the facts presented indicated that the property was used as a two apartment dwelling in 1941. However, there is no evidence of its continuous and uninterrupted use as a two apartment dwelling from 1967 to 1984 and, therefore, the relief requested must be denied.

In consideration of the testimony and evidence presented, there was insufficient evidence to support that the subject property has been used continuously and without interruption as a two apartment dwelling. Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be denied.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of September, 1990 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a two apartment dwelling in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 6/27/91  
By John V. Murphy

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3333  
J. Robert Haines  
Zoning Commissioner

September 14, 1990

Mr. & Mrs. Philip J. Swanson  
5 Dutton Avenue  
Catonsville, Maryland 21228

RE: PETITION FOR SPECIAL HEARING  
E/S Dutton Avenue, 550' N of the c/l of Frederick Road  
(5 Dutton Avenue)  
1st Election District - 1st Councilmanic District  
Philip J. Swanson, et ux - Petitioners  
Case No. 90-488-SPH

Dear Mr. & Mrs. Swanson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

AMN:bjs

cc: Mr. William B. Harmon  
2 Dutton Avenue, Catonsville, Md. 21228

People's Counsel

File



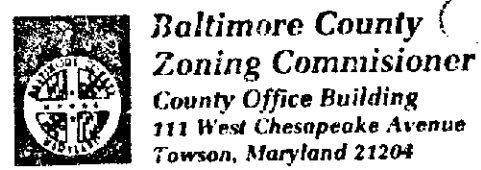
Dennis F. Rasmussen  
County Executive

352



# ZONING DESCRIPTION

Beginning at a point on the east side of Dutton Avenue which is 50 feet wide at the distance of approximately 550 feet north of the centerline of the nearest improved intersecting street Frederick Road which is approximately 60 feet wide. Being Lot No. 1, as shown on the Plat entitled, "Schreier Property, #5 Dutton Avenue" which Plat is recorded among the Land Records of Baltimore County, Maryland in Plat Book BRK, JR No. 44, folio 37, Deed Liber 6972, Folio 521 and located in the 1st Election District.



Account: R-001-6150  
Number: 2774

receipt

Date: 6/21/90  
PUBLIC HEARING FEES QTY PRICE  
050 - POSTING SIGNS / ADVERTISING 1 X \$91.13  
TOTAL: \$91.13  
LAST NAME OF OWNER: SWANSON

Cashier Validation: Please make checks payable to: Baltimore County

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: May 29, 1990  
Posted for: Special Hearing  
Petitioner: Philip J. Swanson, et ux  
Location of property: E/S Dutton Avenue, 550' N of c/l of Frederick Road  
Location of Signs: In front of 5 Dutton Ave.  
Remarks:  
Posted by: J. Robert Haines Date of return: June 1, 1990  
Number of Signs: 1

## CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 23, 1990.

CATONSVILLE TIMES

S. Zate Olson  
Publisher

## CERTIFICATE OF PUBLICATION

TOWSON, MD., May 30, 1990  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 24, 1990.

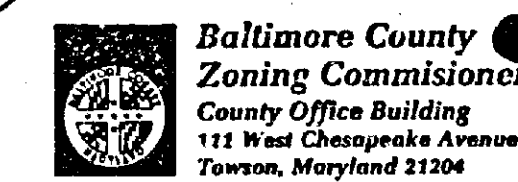
THE JEFFERSONIAN,

S. Zate Olson  
Publisher

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:  
Petition for Special Variance  
Case number: 90-488-SPH  
E/S Dutton Avenue, 550' N of c/l of Frederick Road  
1st Election District  
1st Councilmanic District  
Petitioner(s): Philip J. Swanson, et ux  
Hearing Date: Thursday, June 21, 1990 at 9:30 a.m.  
Special Hearing: The non-conforming use of a two apartment dwelling.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during the period for good cause shown. Such request must be in writing and received in the office by the date of the hearing set above or presented at the hearing.  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
CATJUS35 May 24

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

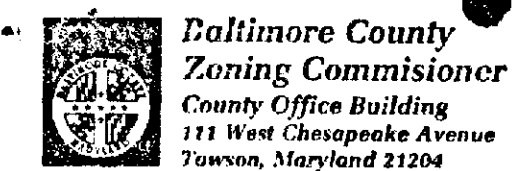
District: 1st Date of Posting: November 12, 1990  
Posted for: Appeal  
Petitioner: Philip J. Swanson, et ux  
Location of property: E/S Dutton Avenue, 550' N of c/l of Frederick Road  
Location of Signs: In front of 5 Dutton Avenue  
Remarks:  
Posted by: J. Robert Haines Date of return: November 16, 1990  
Number of Signs: 1



Account: R-001-6150  
Number: 2051

receipt

Date: 4/09/90  
PUBLIC HEARING FEES QTY PRICE  
030 - SPECIAL HEARING (IRL) 1 X \$35.00  
TOTAL: \$35.00  
LAST NAME OF OWNER: SWANSON  
B B C19\*\*\*\*\*3500: a 6C9EF  
Please make checks payable to: Baltimore County



Account: R-001-6150  
Number: 3835

receipt

Date: 11/07/90  
APPEAL FEES QTY PRICE  
140 - OF ALL OTHER ORDERS 1 X \$125.00  
150 - POSTING SIGNS / ADVERTISING 1 X \$25.00  
TOTAL: \$150.00  
LAST NAME OF OWNER: SWANSON  
04A04J095M1CHRC \$150.00  
B# C01D:53AM11-07-90  
Please make checks payable to: Baltimore County

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

DATE: 6-6-90

Dennis F. Rasmussen  
County Executive

Re: Petition for Special Hearing  
CASE NUMBER: 90-488-SPH  
E/S Dutton Avenue, 550' N of c/l of Frederick Road  
5 Dutton Avenue  
1st Election District - 1st Councilmanic  
Petitioner(s): Philip J. Swanson, et ux  
HEARING: THURSDAY, JUNE 21, 1990 at 9:30 a.m.

Dear Petitioners:

Please be advised that \$ 91.13 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING ON THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland (fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

JRH:gs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

May 7, 1990

## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing  
CASE NUMBER: 90-488-SPH  
E/S Dutton Avenue, 550' N of c/l of Frederick Road  
5 Dutton Avenue  
1st Election District - 1st Councilmanic  
Petitioner(s): Philip J. Swanson, et ux  
HEARING: THURSDAY, JUNE 21, 1990 at 9:30 a.m.

Special Hearing: The non-conforming use of a two apartment dwelling.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County

cc: Mr. & Mrs. Swanson



County Board of Appeals of Baltimore County  
COUNTY OFFICE BUILDING, ROOM 315  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 887-3180

Hearing Room - Room 301, County Office Bldg. December 17, 1990

## NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 90-488-SPH  
PHILIP J. SWANSON  
E/S Dutton Ave., 550' N of c/l of Frederick Rd. (5 Dutton Ave.)  
1st Election District  
1st Councilmanic District  
SPH-nonconforming use - 2 apartments  
9/14/90 - D.Z.C.'s Order DENYING Petition.  
ASSIGNED FOR: FRIDAY, JUNE 21, 1991 at 10:00 a.m.

cc: John V. Murphy, Esquire- Counsel for Petitioner/Appellant  
Philip J. Swanson & Ann V. Swanson - Petitioners/Appellants  
People's Counsel for Baltimore County out per Shirley Hess  
P. David Fields  
Pat Keller  
Public Services out per Paula 1/2/91  
J. Robert Haines  
Ann M. Nastarowicz  
James E. Dyer  
W. Carl Richards, Jr.  
Docket Clerk - Zoning  
Arnold Jablon, County Attorney

LindaLee M. Kusznau  
Legal Secretary

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

June 11, 1990

Mr. & Mrs. Philip J. Swanson  
5 Dutton Avenue  
Catonville, MD 21228

RE: Item No. 352, Case No. 90-488-SPH  
Petitioner: Philip J. Swanson, et ux  
Petition for Special Hearing

Dear Mr. & Mrs. Swanson:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw  
Enclosures



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this  
2nd day of May, 1990.

*J. Robert Haines*  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

*James E. Long*  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Philip J. Swanson

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner  
DATE: May 14, 1990  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Philip J. Swanson, et ux, Item 352  
Zoning Petition No. 90-488-SFH

The Petitioners request a Special Hearing to establish the  
non-conforming use of a two-apartment dwelling.

In reference to this request, staff offers the following  
comments:

- The original lot, 150' X 200' was subdivided in 1978, to  
create the lots now shown. (See record plat of Schreier  
Property, Plat Book 44, Folio 37) The property was then  
zoned D.R.-S.S. In 1980, the area was rezoned to D.R.-3.5,  
and in 1988, rezoned to D.R.-2 in the Comprehensive Map  
process.

If there should be any further questions or if this office can  
provide additional information, please contact Jeffrey Long in the  
Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
Courts Building, Suite 405  
Towson, Maryland 21204  
(301) 887-3554



Dennis F. Rasmussen  
County Executive

May 24, 1990

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for  
items number 352, 356, 357, 358, and 360.

Very truly yours,

*Michael S. Flanigan*  
Michael S. Flanigan  
Traffic Engineer Associate II

MSF/lw

RECEIVED  
MAY 24 1990  
ZONING OFFICE

Baltimore County  
Fire Department  
700 East Joppa Road, Suite 901  
Towson, Maryland 21204-5500  
(301) 887-4500  
Paul H. Reincke  
Chief



Dennis F. Rasmussen  
County Executive

APRIL 25, 1990

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: PHILIP J. SWANSON

Location: #5 DUTTON AVENUE

Item No.: 352 Zoning Agenda: MAY 1, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by  
this Bureau and the comments below are applicable and required to be  
corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site  
shall comply with all applicable requirements of the National Fire  
Protection Association Standard No. 101 "Life Safety Code", 1988  
edition prior to occupancy.

REVIEWER: *Capt. James Kelly 4-26-90* Noted and Approved *Capt. W.F. Brade, Jr.*  
Planning Group Fire Prevention Bureau  
Special Inspection Division

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee  
DATE: May 14, 1990  
FROM: Robert W. Bowling, P.E.  
RE: Zoning Advisory Committee Meeting  
for May 1, 1990

The Developers Engineering Division has reviewed  
the subject zoning items and we have no comments  
for Item 352.

For Items 357 and 360, the previous County Review Group  
Comments still apply.

For Item 356, a County Review Group Meeting is  
required.

For Item 358, a County Review Group Meeting may be  
required. If Lot 2 was part of Parcel "A", the  
remainder of Parcel "A" is left with a below standard  
panhandle access (less than 20 feet along 179.85-foot  
line).

*Robert W. Bowling*  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:s

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

August 24, 1990

Mr. & Mrs. Philip J. Swanson  
5 Dutton Avenue  
Catonsville, Maryland 21228

RE: PETITION FOR SPECIAL HEARING  
E/S Dutton Avenue, 550' N of the c/l of Frederick Road  
(5 Dutton Avenue)  
1st Election District - 1st Councilmanic District  
Philip J. Swanson, et ux - Petitioners  
Case No. 90-488-SFH

Dear Mr. & Mrs. Swanson:

As a follow-up to our discussion at the end of the hearing held  
on June 21, 1990, Mrs. Swanson asked for the opportunity to provide addi-  
tional documentation to support the subject Petition for a non-conforming  
use. To date, this office has not received any correspondence from you.

Please be advised that if no word is heard from you and/or the  
documentation received in this office within fifteen (15) days of the date  
of this letter, a decision will be made based upon the testimony and evi-  
dence presented at the hearing.

Thank you for your consideration in this matter.

Very truly yours,

*Ann M. Nastarowicz*  
ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

AMN:bjs

cc: Mr. William B. Harmon  
2 Dutton Avenue, Catonsville, Md. 21228

*File*

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

November 1, 1990

Baltimore County Board of Appeals  
County Office Building, Room 315  
Towson, Maryland 21204

RE: Petition for Special Hearing  
E/S Dutton Avenue, 550' N of the c/l of Frederick Road  
(5 Dutton Avenue)  
1st Election District, 1st Councilmanic District  
PHILIP J. SWANSON, ET UX - Petitioner  
Case No. 90-488-SFH

Dear Board:

Please be advised that an appeal of the above-referenced case was  
filed in this office on October 16, 1990 (mailed from Tennessee on  
October 12, 1990) by Ann V. Swanson - Petitioner. All materials  
relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the  
appeal hearing when it has been scheduled. If you have any questions  
concerning this matter, please do not hesitate to contact this office.

Very truly yours,

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner

JRH:cer

Enclosures

cc: Philip J. Swanson & Ann V. Swanson  
1887 Hidden Water Drive, Memphis, TN 38134

People's Counsel of Baltimore County  
Rm. 304, County Office Bldg., Towson, Md. 21204

File

62-2113 2- ADM 05

RECEIVED  
COUNTY BOARD OF APPEALS

APPEAL

Petition for Special Hearing  
E/S Dutton Avenue, 550' N of the c/l of Frederick Road  
(5 Dutton Avenue)  
1st Election District - 1st Councilmanic District  
PHILIP J. SWANSON - Petitioner  
Case No. 90-488-SFH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Plat for Zoning Special Hearing

2. Letter from Gail Kindred

Deputy Zoning Commissioner's Order dated September 14, 1990 (Denied)

Notice of Appeal received October 16, 1990 (mailed from Tennessee  
October 12, 1990) from Ann V. Swanson

cc: Philip J. Swanson & Ann V. Swanson  
1887 Hidden Water Drive, Memphis, TN 38134

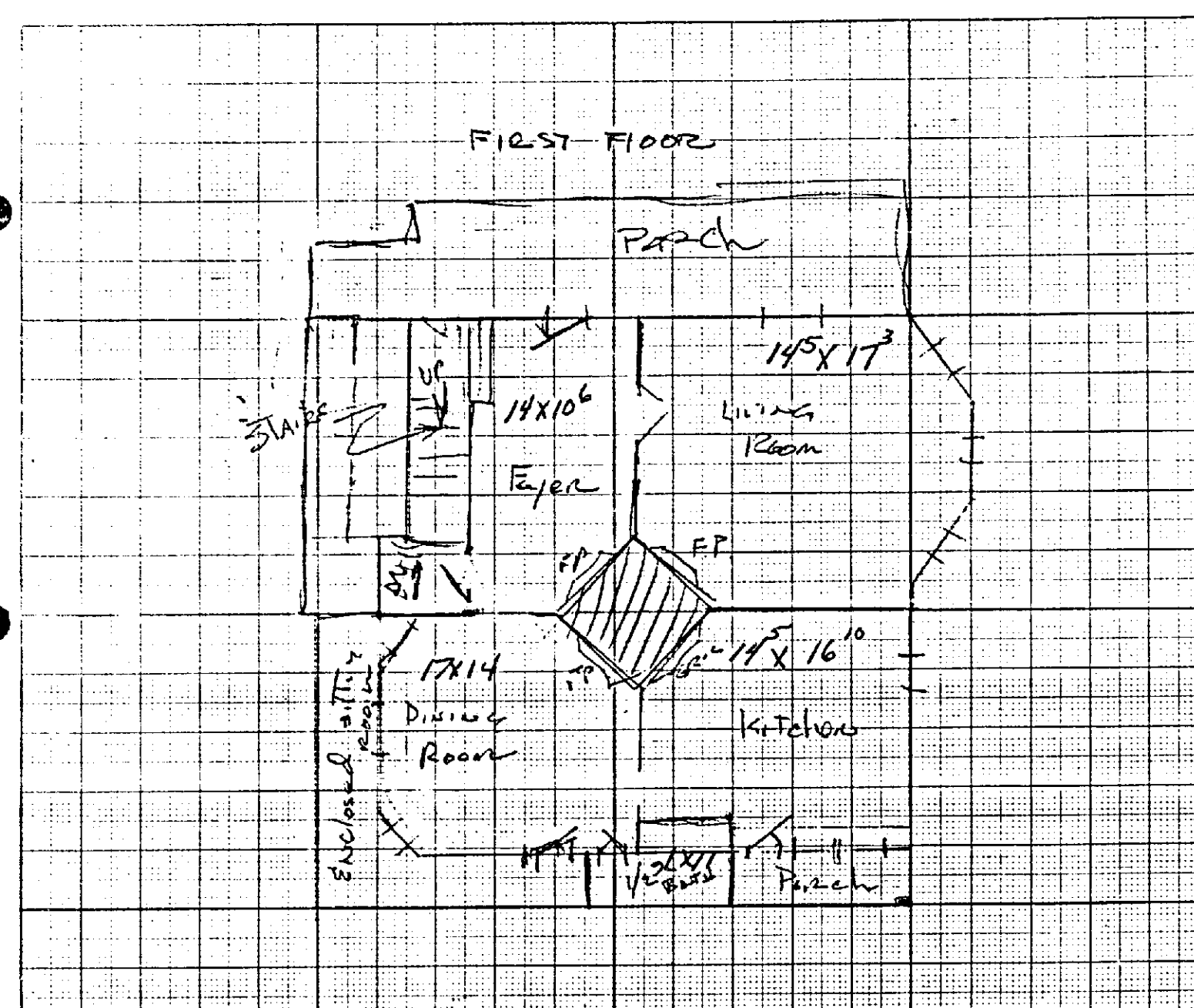
People's Counsel of Baltimore County  
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning  
Patrick Keller, Office of Planning & Zoning  
J. Robert Haines, Zoning Commissioner  
Ann M. Nastarowicz, Deputy Zoning Commissioner  
James E. Dyer, Zoning Supervisor  
W. Carl Richards, Jr., Zoning Coordinator  
Docket Clerk  
Arnold Jablon, County Attorney

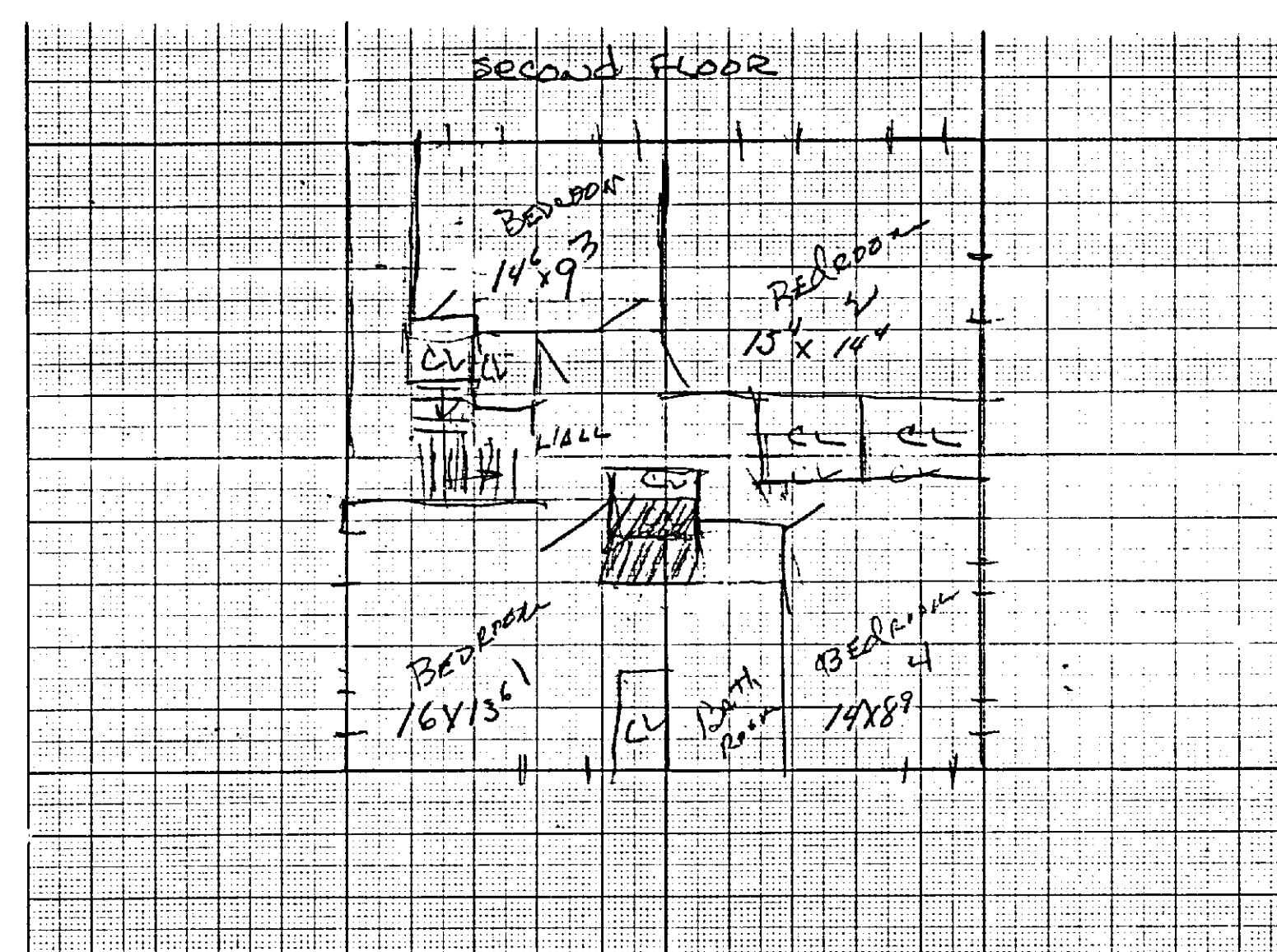




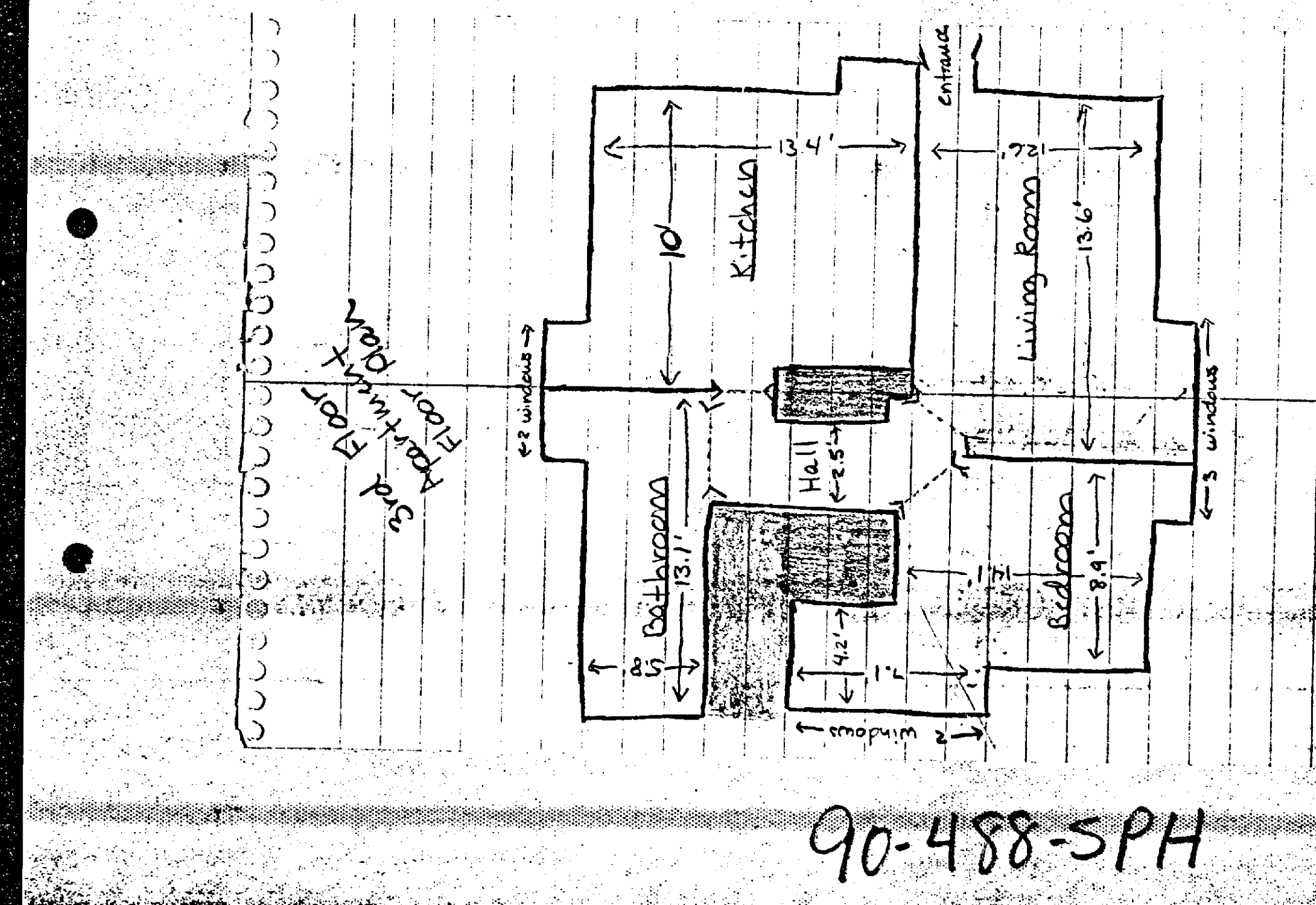




90-488-SPH



90-488-SPH



90-488-SPH

June 20, 1990  
 I, Myrtle Chell, do hereby confirm that upon purchase of 5 Dutton Avenue in 1984 that the third floor apartment was occupied by renter and continued to be rented at the time of sale in 1985 to the Swanson family.

At the time we purchased the house it was stated to us by the real estate agent and the owner that the third floor apartment had been rented for some forty years.

Myrtle Chell

IN THE MATTER OF  
 THE PETITION OF  
 PHILLIP J. SWANSON AND  
 ANN V. SWANSON

Concerning the property at  
 5 Dutton Avenue  
 Catonsville, Maryland 21228  
 Zoning Commission  
 Case No. 90-488-SPH

#### PROPERTY HISTORY

Now comes, Phillip J. and Ann V. Swanson, by their attorney, John V. Murphy, Esquire, who certify and affirm that the following title and zoning information is true to the best of their information and belief:

#### TITLE CHAIN

Swanson Property, 5 Dutton Avenue, Catonsville, Maryland 21228, Lot 1, Schrier Subdivision, Plat Book 44, Folio 37.

Date	Title Owner	Deed Reference	Lib. Folio
7/18/85	Swanson, Phillip & Ann	6955	498
11/9/84	Kinckred, Charles & Gail	6824	160
7/20/78	Schrier, Joseph & Joan	5912	354
9/12/63	Hammond, Wayne & Jean	4920	74
3/16/54	Holloman, Ethel & Edward (son)	2664	125
5/15/20	Holloman, Leonard & Ethel	521	574

#### ZONING HISTORY

- 1945-1955 - R6 "A" Residential  
 2 family dwellings allowed as of right - no requirement to convert single family to 2 family
- 1955-1971 - R6 Zoning  
 2 family dwellings allowed as of right if constructed as 2 family - however, code provides

#### AFFIDAVIT

I, MYRTLE CHELL, whose address is 3 Dutton Avenue, Catonsville, Maryland 21228, am familiar with the property at 5 Dutton Avenue, Catonsville, Maryland 21228. I moved into my house in 1938 and recall that there has been an apartment in the third floor of the house since the Holloman's owned the property in the 1940s.

I specifically recall my friend Dorothy Lumpkin rented the third floor apartment from the next owners, Wayne and Jean Hammond, which I recall was from 1963 to 1978.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalty of perjury that the contents of the above statement to be true and correct to the best of my knowledge, information and belief.

Myrtle Chell  
 MYRTLE CHELL

#2B

#### AFFIDAVIT

I, EDWARD HOLLOWMAN, whose address is 8894 Town and Country Blvd., Ellicott City, Maryland 21043, am familiar with the history of the property known as 5 Dutton Avenue, Catonsville, Maryland 21228. My parents brought the home on May 15, 1920 from Mr. Helfrich. My family originally use the property as their single family home but in 1932 began to take in boarders. I was married and moved out in 1941. My parents then converted the house to their residence and two apartments, using the first floor and part of the second floor as their personal residence while renting the remaining part of the second floor and the third floor as separate apartments.

I visited the property often and can state that the third floor apartment was rented until my mother sold the property to Wayne and Jean Hammond on September 13, 1963.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalty of perjury that the contents of the above statement to be true and correct to the best of my knowledge, information and belief.

Edward Holloman  
 EDWARD HOLLOWMAN

#2A

#### AFFIDAVIT

I, Myrtle Chell, whose address is 7 Dutton Avenue, Catonsville, Maryland 21228, am familiar with the house next door at 5 Dutton Avenue. I moved into my home in 1974 when the house next door was owned by the Hammond family. I become aware that the third floor of 5 Dutton Avenue was rented and can say that since that time the third floor apartment has either been continuously rented or was available to be rented by the owners of the house.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalty of perjury that the contents of the above statement to be true and correct to the best of my knowledge, information and belief.

Myrtle Chell

#2C



AFFIDAVIT

We, CHARLES and GAIL KINDRED, whose address is 305 Stonewall Road, Catonsville, Maryland 21228, are former owners of 5 Dutton Avenue, Catonsville, Maryland 21228. We bought the property from Joseph and Joan Schrier on November 9, 1984 and sold it to Phillip and Ann Swanson on July 18, 1985.

During the time we owned the property the third floor apartment was rented. When we moved in the apartment was already rented by the Shriers to a young lady. She stayed until the spring of 1985 when we rented it to a young couple who stayed on when the Swansons owned it.

I DO SOLEMNLY DECLARE AND AFFIRM under the penalty of perjury that the contents of the above statement to be true and correct to the best of my knowledge, information and belief.

*Charles T. Kindred Sr.*  
CHARLES KINDRED

*Gail L. Kindred*  
GAIL KINDRED

#29

